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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 JESS R. SMITH,

7 Plaintiff,

8 v.

9 THOMAS L'HEUREUX, et al.,

10 Defendants.

Case No. C18-5427-RBL-TLF

ORDER ADOPTING REPORT AND
RECOMMENDATION

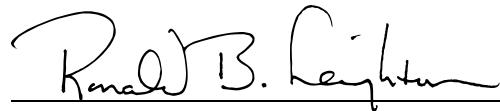
11 THIS MATTER is before the Court on Magistrate Judge Fricke's Report and
12 Recommendation [Dkt. #24], recommending that the Court grant defendants' Thomas
13 L'Heureux, Michael Wayman, M. Bradt, J. Amsbury, D. Dahne, K. McTarsney, and C.O.
14 McGinnis' Motion to Dismiss pursuant to Fed. R. Civ. P. 12(c).

- 15 (1) The Magistrate Judge's Report and Recommendation is ADOPTED;
16 (2) Defendants' Motion to Dismiss (Dkt. #20) is GRANTED;
17 (3) Plaintiff's claims against defendants Thomas L'Heureux, Michael Wayman, M. Bradt,
18 J. Amsbury, are DISMISSED without prejudice for failure to state a claim.
19 (4) Plaintiff's claims against D. Dahne, K. McTarsney, and C.O. McGinnis are
20 DISMISSED with prejudice for failure to state a claim.
21 (5) As plaintiff has been granted *in forma pauperis*, *in forma pauperis* may continue in the
22 event of appeal. *See* Rule of Appellate Procedure 24(a)(3).
23 (6) The case shall proceed against the non-moving defendants Sgt. Ellis and C.U.S. Jones.
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1 (7) The Clerk is directed to send copies of this Order to plaintiff, to Magistrate Judge
2 Fricke, and to any other party that has appeared in this action.

3 IT IS SO ORDERED.

4 Dated this 9th day of May, 2019.

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8 Ronald B. Leighton
9 United States District Judge
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